

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DONA J. HOSKINSON, Individually, as
Surviving Spouse of Larry L. Hoskinson,
Deceased, and as Co-Special Administrator
of the Estate of Larry L. Hoskinson,
Deceased; and MICHAEL HOSKINSON, as
Co-Special Administrator of the Estate of
Larry L. Hoskinson, Deceased,

Plaintiffs,

v.

UNITED STATES OF AMERICA and
UNITED STATES DEPARTMENT OF
VETERANS' AFFAIRS,

Defendants.

8:23CV426

ORDER

This matter is before the Court on the defendants' Motion to Dismiss (Filing No. 9) this case pursuant to Federal Rule of Civil Procedure 12(b)(1) for lack of subject-matter jurisdiction. More specifically, the defendants assert (1) the United States Department of Veterans' Affairs is not a proper defendant under the Federal Tort Claims Act ("FTCA"), (2) the Court lacks jurisdiction under the FTCA because the plaintiffs "have not exhausted their administrative remedies," and (3) the United States has not waived its sovereign immunity with respect to the plaintiffs' misrepresentation claim.

In response to the defendants' motion, the plaintiffs have filed a Stipulation for Dismissal Without Prejudice (Filing No. 16), which the Court construes as a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). In requesting non-prejudicial dismissal, the plaintiffs state they "have submitted a claim to the Department of Veterans['] Affairs VA Central Office which claim is currently pending." They agree "this matter should be dismissed without prejudice."

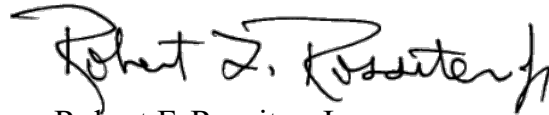
In light of the foregoing,

IT IS ORDERED:

1. This case has been dismissed pursuant to the plaintiffs' notice of voluntary dismissal (Filing No. 16).
2. This case is dismissed without prejudice with each party to bear their own fees, costs, and expenses.
3. The defendants' Motion to Dismiss (Filing No. 9) is denied as moot.

Dated this 2nd day of April 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.
Chief United States District Judge